

ORDINANCE NO. 80 0103-N

AN ORDINANCE AMENDING CHAPTER 29 OF THE AUSTIN CITY CODE OF 1967; DECLARING CERTAIN FINDINGS OF FACT; ADDING A DEFINITION OF LAKE AUSTIN WATERSHED; AMENDING SECTION 29-3.1 TO APPLY TO LAKE AUSTIN WATERSHED SPECIAL DEVELOPMENT PERMIT AND APPROVAL; PROVIDING FOR APPLICATIONS FOR DEVELOPMENT PERMITS AND CONTENTS OF SAME; PROVIDING FOR PLANS AND SPECIFICATIONS TO BEAR SEAL AND CERTIFICATE OF A TEXAS PROFESSIONAL ENGINEER; PROVIDING STANDARDS FOR APPROVAL OF DEVELOPMENT PERMITS; PROVIDING FOR VARIANCES; PROVIDING REASONS FOR DENIAL OF DEVELOPMENT PERMIT TO BE STATED; PROVIDING FOR APPEALS; PROVIDING FOR PERMIT FEES; PROVIDING FOR A CERTIFICATE OF OCCUPANCY; PROVIDING A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Austin, Texas, finds that it is trustee of the natural environment and recreational potential of Lake Austin for future generations of Austinites; and,

WHEREAS, the Lake Austin watershed, compared to other watersheds within Austin's jurisdiction, is mostly undeveloped; and,

WHEREAS, the Lake Austin watershed, due to abrupt topography, thin and easily disturbed soil, natural springs, unique biotic communities, and sparse but significant vegetation, is different from other watersheds within Austin's jurisdiction; and,

WHEREAS, Lake Austin is a primary source of Austin's water supply; and,

WHEREAS, the continued economic growth of Austin is dependent upon recreational opportunities in close proximity to Austin; and,

WHEREAS, Lake Austin, as an integral part of the Highland Lakes, is a significant source of pride and attraction, and the lake and its environment must be preserved and protected to promote Austin's economic well being; and,

WHEREAS, Lake Austin is one of the most significant sources of public recreation for Austinites and must be protected in order to preserve the health and welfare of Austin citizens; and,

WHEREAS, Lake Austin is comparatively shallow and narrow, and thus extremely vulnerable to pollution and sedimentation resulting from development activities within its watershed which are not related to single sources of pollution; and,

WHEREAS, the Lake Austin watershed is undergoing rapid development; and,

WHEREAS, if the Lake Austin watershed is not developed in a sensitive and innovative manner, the recreational benefits of Lake Austin will be irreparably damaged; and,

WHEREAS, the City Council of the City of Austin, Texas, further finds that minimum standards should be adopted as an interim and limited application of the general principles for conservation and development that are embodied in the Lake Austin Growth Management Plan, which principles are intended to protect the water quality of Lake Austin as a source of the City's drinking water and a recreational resource, and to encourage innovative planning and design of urban development which responds to the unique and sensitive environments of the Lake Austin watershed, the purposes of which interim standards are (until more comprehensive regulations based on additional monitoring are adopted):

- (a) To avoid or compensate for increases in soil erosion and sedimentation during and after construction activities;
- (b) To avoid or compensate for increases in runoff volumes and velocities;
- (c) To prevent indiscriminate stripping of vegetation and unnecessary loss of soils;
- (d) To mitigate increases in the pollutant concentrations and total pollutant loading of runoff drainage;
- (e) To prevent structural deficiencies or failures of buildings built on slopes or on earthen fill;
- (f) To prevent construction activity that may precipitate mass movement, slumping, or erosion of land surfaces; and,
- (g) To prevent unacceptable wastewater discharges from reaching Lake Austin; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That Section 29-1 of Chapter 29 of the Austin City Code of 1967 shall be, and same is hereby, amended by adding the following definition to read as follows:

*Lake Austin Watershed.* All land which is described on a map attached hereto marked Exhibit "A," a copy of which is available for inspection in the offices of the city clerk, city planning department, and city engineering department.

PART 2. That Section 29-3.1 of Chapter 29 of the Austin City Code of 1967 shall be, and same is hereby, amended to hereafter read as follows:

Sec. 29-3.1. Waterways - Permit and approval of plans and specifications for development required.

No development, except development which has an inconsequential effect on the environment and on drainage and which has been exempted by the director of engineering, shall be undertaken on any land, tract, parcel, or lot which is adjacent to or crossed by a waterway until a permit for said development has been obtained from the director of the city's engineering department. This requirement shall also apply to any development located in any portion of the Lake Austin watershed inside the Austin city limits, even though the development is not adjacent to or crossed by a waterway. The requirement shall not apply to any single family or duplex residential structures where one such structure is built per legal lot, except that it shall apply where such structures are adjacent to or crossed by a waterway.

PART 3. That Chapter 29 of the Austin City Code of 1967 shall be, and the same is hereby amended by adding thereto Section 29-55, which shall read as follows:

Sec. 29-55. Lake Austin Watershed - Site development permit and approval.

No development, except development which is shown to have an inconsequential immediate or cumulative effect on the water quality of Lake Austin and which has been exempted by the director of engineering (as determined by written guidelines to be promulgated by the director of engineering), shall be undertaken on any land, tract, parcel, or lot which is within the Lake Austin watershed until a site development permit is issued by the director of the engineering department to the owner of such property; provided, that the requirements of this ordinance shall not apply to the construction of single family or duplex residential structures where only one such structure is built per legal lot; and, provided further, that no waterway development permit is required where a site development permit has been issued for an area within the city limits where all requirements of sections 29-1 through 29-3.7 are met.

Sec. 29-55.1. Same - Application for site development permits; contents.

Applications for a site development permit required under Section 29-55 shall be submitted to the director of the engineering department and shall be accompanied by a site development plan. The application and site development plan shall contain the following information unless the director of engineering determines that due to the scope and nature of the proposed development some of the information is unnecessary:

(a) The date, scale, north point and key plan showing the location of the tract on which the development is to take place.

(b) The existing boundary lines and acreage of the tract on which the development is to take place, and the common boundary lines and names of the owners of adjacent properties.

(c) The location of existing waterways and centerlines thereof, lakes, ponds and springs on the lot or tract on which the development is to take place.

(d) The location (and source of information) of the one hundred year flood plain and the twenty-five year flood plain of all waterways called for in (c).

(e) Location of all existing structures and the locations of all proposed structures.

(f) A general description of existing vegetation with reference to general size, location and density of trees.

(g) A slope map, drawn to a scale of one hundred feet to one inch, or in an appropriate scale as determined by the director of engineering. The slope map should display, according to the best information available, topographic information and features (such as sink holes, prominent rock outcrops, stock tanks, cliffs, etc.), the one hundred year flood plain, the slope classes, and the boundaries of the proposed development. The slope map shall separate the proposed development into three slope classes of (1) slopes greater than twenty-five percent, (2) slopes of fifteen percent to twenty-five percent, (3) slopes less than fifteen percent gradient; and the map shall represent each class with a distinct color or coding.

(h) A detailed description of temporary and permanent development activities to be undertaken including their location, the quantities of excavation and fill material, time schedules, and a designation of the maximum height and depth of all cuts and fill in excess of four feet necessary for the construction of roads, parking areas and building sites.

(i) A display of data which shows the following information:

(1) The land area of each slope class within the development as delineated by the slope map shall be calculated to the nearest one-tenth acre.

(2) The total maximum impervious coverage expected for the development within each slope class shall be calculated. Subtotals shall be shown for, in each case which is applicable, streets, common off-street parking, commercial areas, tennis courts and other recreational areas, and residential areas.

(j) A grading and erosion-sedimentation control plan. The data requirements for this plan should include: (1) a slope map with vertical contour intervals of five feet or less; (2) a detailed description of proposed changes to the site; (3) a detailed description of measures which shall be taken for the control of soil erosion and sedimentation.

(k) Plans and specifications for any proposed alteration or improvement of a bed or bank of a waterway including descriptions of the location, size, capacity, and design characteristics of all sedimentation basins and the storm water detention facilities, both temporary and permanent, within the development. It shall also include a scheduling sequence for the installation of temporary (construction phase) and permanent erosion-sedimentation control measures.

Sec. 29-55.2. Same - Plans and specifications to bear seal and certificate of a Texas professional engineer.

No plans and specifications called for in Section 29-55.1 shall be accepted, reviewed, or approved by the director of engineering unless accompanied by a certificate bearing the seal of a Texas professional engineer certifying (1) the accuracy of same, and (2) that requirements of this ordinance are met by such plans and specifications.

Sec. 29-55.3. Same - Standards for approval of site development applications.

All applications for site development permits shall conform to the minimum standards for site disturbance and impervious coverage set forth below:

(a) Paved surfaces such as private drives, parking lots, or driveways, or public roadways in the instance of a C.I.P. project of the City of Austin.

(1) Grades - In no case may impervious surface be constructed on terrain with a slope class greater than twenty-five percent, except when necessary to provide access to an area of slopes less than twenty-five percent.

(2) Location - All such surfaces shall be located so as to utilize every advantage of the natural terrain to the extent of minimizing cuts and fills.

(3) Pre-construction clearing - In no case may clearing for development be permitted prior to issuance of site development permit. Minimal clearing for the purposes of survey may be permitted, however, provided natural ground cover is not removed.

(4) Temporary site disturbances - Clearing for the temporary storage of spoils or construction equipment shall be so designated on the site plan. Such areas shall be restored in accordance with the erosion and sedimentation controls manual to be promulgated jointly by the office of environmental management and the engineering department. The topsoil should be protected against erosion during and after the site grading operations. Where practical, the existing vegetation should be left in place or be replaced by a better grade of ground cover to protect existing or new topsoil against erosion.

(b) Site disturbance (Cut and fill, grading and building sites)

(1) Building lots - No fill on any building site shall exceed a maximum of four feet of depth except as approved by the director of the engineering department in the areas designated as permanent on-site spoils disposal sites. In addition, fill placed under foundations with sides perpendicular to the ground, or with pier and beam construction, need not comply with this requirement. No cut on any building site shall be greater than four feet, except for structural excavation.

(2) Driveways - Every lot shall be reasonably accessible by vehicle from the roadway to the probable building site. For a minimum travel distance of twenty-five feet from the roadway edge the driveway grade may exceed fourteen percent only with specific approval of surface and geometric design proposals by the director of the engineering department or his/her designee.

(3) Erosion Control and Restoration. Applications for a site development permit shall be accompanied by a proposed construction sequence to demonstrate an acceptable plan for erosion control during the construction period and restoration of the land after the construction period and shall be approved by the director of engineering and the office of environmental resources management. All measures for erosion control and restoration shall be performed in accordance with the erosion and sedimentation controls manual.

Projects shall not be considered complete until restoration has been made, the required vegetation established, and approved by the Engineering Department as installed.

In the event the City accepts maintenance responsibility for the streets, drainage and utilities prior to completion of restoration requirements, a separate and enforceable agreement to ensure completion of all restoration requirements shall be entered into by the City of Austin and the developer.

(4) Disposal sites - Permanent disposal sites for fill material or spoil shall be reported to the engineering department.

(c) Impervious cover (Roads, parking areas, buildings, other). Roads, parking areas, buildings and other impermeable construction covering the natural land surface shall be considered as impervious cover. No development of land shall be allowed to create impervious

cover in excess of thirty percent on slopes under fifteen percent gradient or in excess of twenty percent on slopes of fifteen percent to twenty-five percent gradient, or in excess of ten percent on slopes over twenty-five percent gradient. The transfer of allowable impervious cover from slopes in excess of fifteen percent gradient to slopes under fifteen percent gradient shall be permitted each individual site. In such cases of transfer, the impervious cover allowed on slopes under fifteen percent gradient may be permitted to exceed thirty percent but shall not be permitted to exceed eighty percent.

It is further provided, however, that the maximum impervious cover allowable for any lot which is part of a subdivision in the Lake Austin Watershed which has been approved after the effective date of Ordinance No. 790913-AA (Lake Austin interim subdivision regulations) shall be equal to the maximum percentage of impervious coverage allocated to said lot on said approved subdivision plat if such allocation of impervious cover has been made by appropriate restriction on the plat or on other legal instrument prior to subdivision approval.

It is further provided that the maximum impervious cover allowable for any lot which is part of a proposed subdivision for which a preliminary plan was approved prior to January 15, 1978 shall be permitted to meet the following impervious cover requirements: thirty-seven percent on slopes from zero to fifteen percent gradient, and twenty percent on slopes over fifteen percent gradient. In addition, it is further provided that the maximum impervious cover allowable for any lot which is a part of a proposed subdivision for which a preliminary plan was approved and which has at least one section recorded prior to January 15, 1978, shall be permitted to meet the following impervious cover requirements: fifty-five percent on slopes from zero to fifteen percent gradient, and five percent on slopes over fifteen percent gradient. This provision shall not apply to any lot which is part of a subdivision plat utilizing the alternative methods section of Chapter 41 of the Austin City Code.

(d) Building foundations on steep slopes - The following standards are established to control the design of foundations for all buildings on (a) slopes of fifteen percent and over; and (b) on fill placed upon slopes fifteen percent and over. All building foundations in such locations must utilize design and construction practices acceptable to the civil engineering profession.

(e) Alternative methods - As an alternative to compliance with the site disturbance erosion and sediment control and impervious coverage requirements of this section, the developer may choose to provide a complete storm water management system which shall meet the performance standards set forth below. It shall be the responsibility of the developer to provide the engineering data, calculations, maps, and other information necessary to prove that the development shall not exceed the standards. Said alternatives shall be approved by the director of engineering, if it determines that the alternatives:

(1) will, in accordance with criteria and standards set forth in the department of engineering's Austin Drainage Criteria Manual, not exceed the runoff rate levels predictable under the specific criteria the alternative methods are to replace; and,

(2) will not result in predictable lowering of the water quality (in terms of fecal coliform, lead, total organic carbon, total nitrogen, total phosphorus, hydrocarbons-hexane extract, and suspended solids) of the subject tract runoff from the quality level expected under the specific criteria the alternate methods are to replace.

Any alternate proposals for controlling quality and rate of runoff must be capable of being legally enforced. The developer or applicant shall have the burden of proof in establishing the merits of any proposed alternative methods. The proposal shall be certified by a registered professional engineer with expertise in the area of concern.

All alternative proposals, methods and plans shall be submitted by the applicant to the directors of engineering and office of environmental resource management for review.

Prior to action on the site development permit application, the city attorney shall approve the enforceability of the proposals.

Sec. 29-55.4. Same - Variances.

Variances from the terms of this ordinance may be granted by the planning commission only if it is found that, because of special circumstances applicable to the property involved, a strict application deprives such property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where such conditions are found, the variance permitted shall be the minimum departure from site development standards necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. In no case may a variance be granted that will provide the applicant with any special privileges not enjoyed by other similarly situated properties with similarly timed development.

Sec. 29-55.5. Same - Signs required for proposed permits.

Within two days of the filing of any application for a site development permit, the city shall place signs on property under application for the purposes of advertising said permit. The signs shall meet the following requirements: Each sign shall be no smaller than eighteen inches by thirty inches and shall include

the words "Proposed Site Development Permit," plus such other information as may be determined necessary by the director of engineering. Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street and must be visible from that street. All required signs shall remain on the property until final disposition of the permit request is determined.

Sec. 29-55.6. Same - Automatic issuance of permit if not denied; reasons for denial required.

A site development permit not denied or disapproved by the director of engineering within twenty working days following the date of application therefor shall issue automatically to the applicant. If the director of engineering denies the permit or disapproves it pending receipt of additional information, he shall notify the applicant in writing via certified mail. His letter to the applicant shall be accompanied by a detailed statement of the reasons for such action, which reasons must be based on standards contained herein. The permit shall be effective ten days after issuance unless within that period an appeal is filed under Section 29-55.8.

Sec. 29-55.7. Same - Aggrieved property owner may appeal denial of permit to the city council.

If the site development permit is denied, the aggrieved property owner may appeal to the city council by filing a written notice with the city clerk. Said notice shall point out with specificity why, in the opinion of the aggrieved property owner, the denial was improper. The city council shall set a date for a hearing upon such appeal within thirty days of the date of notice filing, and shall notify the property owner in writing of such hearing date. Upon a public hearing, the city council may issue the permit if by a preponderance of competent technical evidence it finds that the director of engineering exceeded his discretion in denying same.

Sec. 29-55.8. Same - Appeal of issuance of permit.

Any owner of property in the City of Austin or in the Lake Austin Watershed area as defined in Section 29-1 of the City Code may appeal the issuance of a site development permit by the director of engineering on the basis that said permit will impair the water quality of Lake Austin or tributaries thereof. Such appeal must be made in writing to the city clerk within ten working days after the date of issuance. The city council shall have fifteen working days from the date of filing in which to hold a public hearing to consider said appeal and must act to revoke said permit within that period. The appeal shall be denied unless the city council finds by a preponderance of competent technical

evidence that the permit in question would violate one or more provisions of this ordinance. Unless the appeal is allowed within fifteen days, the appeal shall be denied and the permit shall be effective on the fifteenth day.

Sec. 29-55.9. Permits.

Applications for permits required by the provisions of this chapter shall be accepted only upon payment of the appropriate fee as set out in the following schedule.

Class A permits..... \$ 50.00

Class A permit will be issued for a development which the director of engineering determines does not require significant engineering research, study or reporting by the City of Austin.

Class B permits..... \$100.00

All permits other than those determined to qualify as Class A permits.

Sec. 29-55.10. Certificate of occupancy.

No City of Austin utilities may be connected to a site unless a certificate of occupancy is issued by the department of engineering when the development is completed pursuant to requirements of this ordinance for areas outside the city limits or until the building inspection department issues a certificate of occupancy with the written concurrence of the director of the engineering department for areas within the city limits. Requests by the developer/owner for a certificate of occupancy for development other than residential or duplex construction shall be accompanied by a certificate prepared and signed by a registered professional engineer attesting to the completion of the project in substantial conformance with the city approved plans, specifications and permit.

Sec. 29-55.11. Penalty for violations.

Any person violating any of the provisions of this section, and any person who does any act requiring a permit under the provisions hereof without a valid permit, and any person who fails or refuses to comply with any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars. Each day that such violation continues shall constitute a separate offense and be punishable as such.

PART 4. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the invalidity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion thereof or provisions, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this ordinance are declared to be severable for that purpose.

PART 5. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED

January 3, 1980

X  
X  
X  
X

Carole Keeton McClellan  
Mayor

APPROVED: Albert D. L. Rosa  
City Attorney

ATTEST: Grace Monroe  
City Clerk

25JAN80  
SF:dc

EXHIBIT "A"



BOUNDARY MAP  
of  
LAKE AUSTIN GROWTH MANAGEMENT PLAN

CITY OF AUSTIN KDP  
DEPARTMENT OF PLANNING  
JAN 1976